

**DURHAM, NORTH CAROLINA  
MONDAY, APRIL 3, 2006  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Pro Tempore Cole-McFadden read a proclamation designating April 2006 as Durham Youth Service Month.

Mayor Bell read the following proclamations proclaiming: Fair Housing Month -- Human Relations Director Yvonne Pena made comments; Week of the Young Child (April 2-8, 2006) -- Harold Sellars made comments; and Spring Litter Sweep (April 17-30, 2006) -- Dorothea Pierce made comments.

Council Member Clement commended Chancellor Ammons and others from NCCU on sponsoring the American African Education Conference held at the Sheraton.

Mayor Bell thanked everyone who participated with the Mayor's Summer Youth Program Job Fair. Also, he thanked Kim Moss and volunteers who helped with this event.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker made comments on the Supplemental Agenda Items #48 [Ordinance Rescheduling the April 6, 2006 Regular City Council Work Session] and #49 [Resolution – Hayti-Elizabeth Street Renewal Area]. City Manager Baker noted this was a request from the County and provided background information on this item. He gave an overview of staff's memo dated April 3, 2006. He noted in 1962, the Redevelopment Commission approved the NCR-16 Redevelopment Plan governing the Hayti-Elizabeth Street area. As part of that redevelopment plan in 1966, the Redevelopment Commission recorded a series of covenants on all of the property covered by the plan. For some reason, in 1969, the Redevelopment Commission recorded the same covenants over the area covered by the NCR-16 Redevelopment Plan a second time.

In 1992, Council amended the NCR-16 Redevelopment Plan to remove the area east of Blackwell Street from the plan and to withdraw the restrictive covenants from the area. No one realized that two sets of identical covenants had been recorded, however, meaning that the restrictive covenants were not fully withdrawn and remain in effect. In 2002, one set of

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covenants was taken from that area leaving a second set of covenants that had not been effectively removed. He noted the County is in the process of acquiring property in downtown Durham that is a part of the NCR-16 redevelopment plan and the title search has uncovered the second set of covenants that had not been taken out in the 2002 amendment and the resolution addresses those technical errors.

Mayor Bell noted the April 6, 2006 Work Session will start at 11:00 a.m. rather than 1:00 p.m. at which time Council will receive an update on the 2005 bond project implementation.

**MOTION** by Council Member Clement seconded by Council Member Brown to accept the City Manager's priority items was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Council Member Clement requested that an item be added to the April 6, 2006 Work Session -- Duke University (Lacrosse Team] controversy. Council Member Brown requested an update from the Police Chief on this matter.

There were no priority items from the City Attorney.

City Clerk Gray informed the City Council of a valid protest petition filed against GBA #32 -- Zoning Map Change – Goodwin Crossing.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 6 [Durham Housing Authority – Appointments], 15 [Weed and Seed Year Three Initiative] and 30 [RKG Associates, Inc. Economic Assessment and Development Plan of Old Five Points, Northeast Central Durham and the Fayetteville Street Corridor] were pulled.

Council Member Stith stated he would be voting no on Item #26 -- Street, Water & Sewer Assessment and Frontage Charge Rates.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **[CONSENT AGENDA]**

#### **SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve City Council minutes for the March 6, 2006 regular City Council Meeting; and

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To approve City Council action taken at the February 23, 2006 City Council Work Session was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: HOUSING APPEALS BOARD - APPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to appoint Chandra T. Taylor as a Regular Member to the Housing Appeals Board representing Finance with a term to expire on June 30, 2008 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DESIGN DISTRICT REVIEW TEAM - APPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to appoint Joe Jackson to the Design District Review Team as a Landscape Architect with a term to expire on January 31, 2007 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM PLANNING COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive and accept applications for citizens to fill two (2) vacancies on the Durham Planning Commission representing District 4 and District 6 with terms expiring on June 30, 2009 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: MAYOR'S NOMINEES FOR REAPPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to reappoint the following members as Mayor's Appointees to the Boards listed below with terms expiring on December 31, 2007 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Spurgeon S. Thurston - Durham Board of Adjustment  
R. Edward Stewart - Durham Civic Center Authority  
James Welch - Durham Historic Preservation Commission  
Thomas M. Niemann - Durham Housing Authority

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Lucy Zastrow - Housing Appeals Board

**SUBJECT: PUBLIC HEARING ON THE DRAFT FY 2006-07 ANNUAL ACTION PLAN**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to set a public hearing on the Draft FY 2006-2007 Annual Action Plan to be held on April 17, 2006 and to receive citizen comments was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF A 1,076.80 LINEAR FOOT PORTION OF CONOVER ROAD (SC05-18)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution to set a public hearing on the proposed closing of a 1,076.80 linear foot portion of Conover Road for May 1, 2006 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9338**

**SUBJECT: MAJOR SITE PLAN – FIDELITY BANK-SHANNON ROAD (D05-823)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve a major site plan for “Fidelity Bank,” submitted by Kimley-Horn and Associates, Inc., on behalf of Fidelity Bank, for a 3,775 square foot bank with three drive-through lanes, a free-standing ATM, 21 vehicle and three bicycle parking spaces on a 1.069 acre site zoned CC, the property is located within the South Square Shopping Center on the west side of Shannon Road, northwest of its intersection with Auto Drive, [PIN 0810-10-37-1405] was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT – THE CLOISTERS AT AUBURN (D05-788)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve a major site plan and preliminary plat for “The Cloisters at Auburn,” submitted by The John R. McAdams Company, Inc., on behalf of Barbee Associates LLC, to construct a 19 unit townhome development on a 1.56 acre tract, zoned PDR 5.37 and F/J-B, the site is located at the northeast corner of Mallory Lane and Pebble Creek Crossing, and the southeast corner of Woodcroft Parkway and Pebble Creek Crossing, PIN 0728-02-58-4317] was approved at 7:34 p.m. by the

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following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DESIGNATION OF DEPUTY FINANCE OFFICER**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution designating Joseph Clark, Purchasing Manager, as a Deputy Finance Officer was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9339**

**SUBJECT: ENGAGEMENT OF ATTORNEY FOR RADIO REBANDING  
NEGOTIATION - 800 MHZ RADIO SYSTEM - ALLEN TILLES**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute an Engagement Agreement with Allen Tilles to represent the City of Durham in the rebanding of the 800 MHz radio system as mandated by the FCC was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM STATION PROFESSIONAL SERVICES CONTRACT  
AMENDMENT #2 - THE FREELON GROUP, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute to the Professional Services Contract to amend The Freelon Group, Inc. contract to include additional design services and increase the existing contract of \$1,161,839 by \$339,000 for a total of \$1,500,839, and to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the agreement;

To increase the design contingency from \$54,515 to \$100,000; and

To authorize the City Manager to negotiate and execute professional services change orders to The Freelon Group, Inc. contract provided the cost of all change orders does not exceed the \$100,000 contingency and the total cost does not exceed the new contract amount and new contingency total of \$1,600,839 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: DOWNTOWN RENOVATION PROJECTS - HEERY INTERNATIONAL, P.C.**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract with Heery International, P.C. in the amount of \$1,137,093;

To authorize the City Manager to modify the agreement before execution provided modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement; and

To authorize the City Manager to establish a design contingency in the amount of \$113,709 for any unforeseen design costs and to negotiate and execute design amendments for the project provided that the cost does not exceed a total project cost of \$1,205,802 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: HOME AGREEMENT WITH THE DURHAM COMMUNITY LAND TRUSTEES, INC. FOR SITE ACQUISITION AND DEMOLITION ACTIVITIES AND SUPPORT OF A CONSTRUCTION MANAGER**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the expenditure of FY 03-04 HOME Program funds in an amount not to exceed \$75,000;

To authorize the expenditure of FY 05-06 HOME Program funds in an amount not to exceed \$269,000;

To authorize the City Manager to execute a HOME Community Housing Development Organization (CHDO) Grant Agreement and other related legal documents with Durham Community Land Trustees, Inc. in an amount not to exceed \$299,000 to support acquisition and/or rehab of up to twelve units for sale to low-to-moderate income households;

To authorize the City Manager to execute a HOME Community Housing Development Organization (CHDO) Grant Agreement and other related legal documents with Durham Community Land Trustees, Inc. in an amount not to exceed \$45,000 to support the activities of a Construction Manager to improve the West End Communities; and

To authorize the City Manager to modify any of the agreements before execution provided that the modifications do not increase the dollar amount of the agreements and do not lessen the obligations of the contractor was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: CONDITIONAL COMMITMENT OF HOUSING BOND FUNDING FOR  
LOW INCOME HOUSING TAX CREDIT PROJECT: STEWART  
SQUARE - STEWART SQUARE, LLC**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to issue a conditional commitment of 1996 Housing Bond funds in the amount of \$500,000 to Stewart Square, LLC in the form of second mortgage permanent financing at an interest rate of 2% with a term of 20 years subject to the negotiation of financing terms and the development of loan documentation for City Council consideration at a later date. This conditional commitment will terminate automatically if the subject property is not allocated 2006 LIHTC by the North Carolina Housing Finance Agency was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: SUBSTITUTION OF MISCELLANEOUS CDBG FUNDS FOR ELIGIBLE  
FY 05-06 BOND EXPENDITURES ON THE BARNES AVENUE  
REDEVELOPMENT PROJECT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve the reallocation and drawdown of \$526,327.74 of miscellaneous CDBG funds from the U.S. Treasury prior to May 2, 2006 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CAPITAL PROJECT ORDINANCE AMENDMENT TO INCREASE THE  
FUNDING FOR CONSTRUCTION FOR THE THIRD FORK CREEK  
TRAIL**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt an Ordinance Amending the General Capital Project Ordinance, Fiscal Year 2005-06, as amended, the same being ordinance #13191, for the purpose of allocating \$159,200.03 from Park Renovations (Project #4) to the Open Space and Greenway project (Project #12) was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13237**

**SUBJECT: REPEAL OF EXISTING CITY CODE ARTICLE V, SECTION 20 AND  
REPLACEMENT WITH A NEW ARTICLE V, SECTION 20 FOR  
BICYCLES AND NON-MOTORIZED RECREATION VEHICLES**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt an Ordinance repealing the existing Article V, Section 20 of the City Code and replacing it with the

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new proposed Article V, Section 20 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13238**

**SUBJECT: 2005 ANNUAL REPORT – DURHAM CITY-COUNTY APPEARANCE COMMISSION**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive the 2005 Annual Report for the Durham City-County Appearance Commission was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: 2005 ANNUAL REPORT OF THE DURHAM PLANNING COMMISSION**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive the 2005 Annual Report of the Durham Planning Commission was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: WAL-MART FOUNDATION GRANT AWARD**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to accept the Wal-Mart Foundation Grant by executing the grant documents; and

To adopt the Wal-Mart Foundation Grant Project Ordinance in the amount of \$2,000 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13239**

**SUBJECT: SAM'S CLUB FOUNDATION GRANT AWARD**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to accept the Sam's Club Foundation Grant by executing the grant documents; and

To adopt the Sam's Club Foundation Grant Project Ordinance in the amount of \$1,000 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.



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**Ordinance #13240**

**SUBJECT: AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION [NCDOT] FOR CMAQ-FUNDED BICYCLE PARKING PROGRAM AND ADOPTION OF GRANT PROJECT ORDINANCE**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution to authorize the City Manager to execute an agreement with NC Department of Transportation under which the City will create bicycle parking, using state/federal CMAQ funds of \$38,400 and a local match from the City of \$9,600 (20 per cent), under the standard Department of Transportation terms and conditions for such agreements; and

To adopt the City of Durham Bicycle Parking Program Grant Project Ordinance in the amount of \$48,000 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9340  
Ordinance #13241**

**SUBJECT: STREET, WATER, & SEWER ASSESSMENT AND FRONTAGE CHARGE RATES**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution amending street, water, and sewer assessment rates and frontage charges was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9341**

**SUBJECT: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) UTILITY AGREEMENTS U-4010 AND I-306C**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt Resolutions to reimburse the North Carolina Department of Transportation;

To authorize the City Manager to execute utility agreements for the relocation of utilities for the following:

- 1) Improvement of NC 98 (Holloway St.) from east of US 70 Bypass to east of

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Junction Road – Project U-4010 (\$46,073), and

2) Widening of I-85 from east of SR 1401 (Cole Mill Road) to west of Broad Street in Durham – Project I-306C (\$539,785);

To authorize the expenditure of \$461,708 from the Water Extensions and Improvements Account for these relocations and \$124,150 from the Sewer Extensions and Improvements Account was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9342 – 9343**

**SUBJECT: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION [NCDOT] UTILITY AGREEMENT P-3414J**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution to reimburse the North Carolina Department of Transportation; and

To authorize the City Manager to execute a utility agreement for the relocation of utilities along the addition of a rail line from D & S Junction near MP H 56.6, which is approximately 3650 feet west of Ellis Road near its intersection with Angier Avenue, to near MP H 59.3 approximately 1950 feet east of Glover Road near its intersection with Angier Avenue, which necessitates relocating Rigsbee Road, SR 2088/ SR 2072; and

To authorize the expenditure of \$106,267 from the Water Extensions and Improvements Account for the relocation of the utilities was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9344**

**SUBJECT: 2005 BOND PROJECT IMPLEMENTATION UPDATE**

To receive a presentation from the administration regarding the implementation timeline for the 2005 bond projects.

**Note: A presentation was received at the March 23, 2006 Work Session and this item was deferred to the April 6, 2006 Work Session.**

**SUBJECT: DURHAM BICYCLE AND PEDESTRIAN ADVISORY COMMISSION'S (BPAC) ANNUAL REPORT**

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**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive an Annual Report of the Bicycle and Pedestrian Advisory Commission was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: BETTY K. BORDEN**

To receive comments from Betty K. Borden regarding water drainage at 3506 Four Seasons Drive.

**Note: Comments were received at the March 23, 2006 Work Session.**

**SUBJECT: DURHAM CONSERVATIVE CLUB**

To receive comments from Jack Steer regarding the "Truth in Bond Spending".

**Note: Comments were received at the March 23, 2006 Work Session.**

**SUBJECT: SHERYL SMITH**

To receive comments from Sheryl Smith regarding crime.

**Note: Comments were received at the March 23, 2006 Work Session.**

**SUBJECT: INTER NEIGHBORHOOD COUNCIL**

To receive a special recognition from the Inter-Neighborhood Council commending several City employees for city services to their community.

**Note: Special recognition was received at the March 23, 2006 Work Session.**

**SUBJECT: HILLSIDE HIGH SCHOOL PRODUCTION OF THE PLAY "PERILOUS TIMES" AT THE CAROLINA THEATRE**

To discuss the Hillside High School Production of the Play "Perilous Times" at the Carolina Theatre.

**Note: This item was approved at the March 23, 2006 Work Session to receive the City Manager's Recommendation with a vote of 6/0.**

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**SUBJECT: HILLSIDE HIGH & SOUTHERN HIGH SCHOOL**

To receive an update on the closing of Hillside High & Southern High School.

**Note: A report was received at the March 23, 2006 Work Session.**

**SUBJECT: PROJECT SAFE NEIGHBORHOOD**

To receive a report on Project Safe Neighborhood.

**Note: A presentation was received at the March 23, 2006 Work Session.**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: FULL FRAME DOCUMENTARY FILM FESTIVAL - GIORGIOS  
HOSPITALITY GROUP**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to permit the Giorgios Hospitality Group to serve beer and wine at the Downtown Durham Civic Center Plaza during the Full Frame Documentary Film Festival on April 6-9, 2006 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Stith and Woodard. Noes: Council Member Clement. Absent: None.

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: ZONING MAP CHANGE – GOODWIN CROSSING - (Z05-31) –  
CHARLES W. MITCHELL – 1207 AND 1312 GOODWIN ROAD, NORTH  
OF INFINITY ROAD**

**Note: Valid protest petition filed against this item.**

To receive public comments on the zoning map for Goodwin Crossing (Z05-31);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-31 out of RS-20 and placing same in and establishing same as PDR 2.84 with lots encroaching into the Transitional Use Area (TUA) (Section 4B.1.10), and with the effective date of this zoning request delayed until subdivision of parcels, to correspond to parcel boundaries of the zoning map (Section 15.2.1 of the Zoning Ordinance);

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

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Alternatively, in the event that a motion to approve the item fails, the finding that has been approved by the Governing Body is

To adopt as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 8-5, based on consistency with the Comprehensive Plan and considering the information in the staff report and testimony provided at the public hearing.

City/County Planning Director Frank Duke briefed Council on the staff report. He noted there is a development plan associated with this project and gave an overview of the following committed elements found on page 2 of the staff report: minimum lot size of 7,000 square feet, minimum building setbacks per typical lot layouts; grading of lots shall not occur until curb and gutter is installed along the frontages of proposed lots; no steep slope areas; utilize Best Management Practices where space allows to reduce the need for nitrogen buy down; installation of 6-foot high wooden fence along the sides of lots 7-11, 13 and 14 and 10-foot wide landscaped area adjacent to lot 12; provide a 35-foot wider buffer along the northwestern property line of the Christmas property and extend the fence along the entire length of the northern property; provide two pocket parks—one on the north and south side of Goodwin Road; 100-foot greenway easement along Cabin Creek; provide one 6-foot wide trail connection; construct a sidewalk along the frontages of Goodwin Road; construct two-turn lanes at the site entrances. He noted the request is consistent with the Comprehensive Plan. Based on that information, the Planning Department has recommended approval based on the consistency with Comprehensive Plan and the Planning Commission also recommended approval.

Mayor Bell opened the public hearing.

### **Proponents**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this rezoning noting this application fits well within the new Comprehensive Plan's goals and guidelines. He noted the applicant has agreed to spend \$900,000 to build one-third of the City's sewer loop that is needed for this region. He made comments on the meeting that was held with the residents to address issues of concerns regarding price range and quality of homes. He noted the applicant agreed to make the lots abutting and adjacent to the Briardale community to be a minimum size of 20,000 square feet, to create a 25-foot deed restricted undisturbed buffer to be enforced by the homeowners association, and to reduce the number of lots from 179 by 24 lots--build no more than 155 single-family homes. Attorney Spaulding made comments on the roads, traffic and school capacity. He urged Council to support this rezoning application.

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George Stanziale, representing the applicant, made comments on committed elements added/changed as a result of neighborhood and Planning Commission meetings. He noted the applicant would be proffering no mass grading in accordance with the March 7<sup>th</sup> UDO, reducing the density from 2.31 to an effective density of 1.97. He discussed the issue of open space. Regarding the cabin--Snow Hill Farm tin house-- on site, he noted this is not a designated historic structure and the applicant is willing to allow anyone to have this structure at their cost to remove it prior to construction. He noted the applicant would be offering curb and gutter along Goodwin Road as a committed element.

## **Opponents**

James Arnold, of 5 Maere Court, spoke in opposition to this rezoning request. He noted the current plan includes changes that do not fit with the surrounding area. He expressed concern with the PDR, that there is no reason for rezoning this area other than for profit; made comments on the Briardale covenant relative to trees. He noted if lots were comparable to Briardale, it would alleviate a lot of problems, asked the individuals in the audience to raise their hands who were in opposition to this rezoning. He urged Council to not approve this rezoning application.

Nancy Quinn, of 1313 Meadston Drive, spoke in opposition to this rezoning, discussed an article that appeared in the March 14, 2005 newspapers [THE NEWS & OBSERVER and THE HERALD-SUN] referencing that the schools and the roads are strained under City's growth.

James Quinn, of 1313 Meadston Drive, spoke in opposition to this rezoning, noted this is a drastic zoning change and what is being proposed is not any way contiguous to what we have currently, there is no guarantee that the development would proceed as it is spelled out and asked Council to review if this would be another eyesore within the next five to ten years.

Amy Arnold, of 5 Maere Court, noted she opposes the zoning map change of Goodwin Crossing. She noted she hasn't gained any satisfaction from numerous meetings she attended relative to small lots, mass grading and size of homes. She noted the entire development issue should go back to the drawing board to make this comparable to the surrounding area.

Jennifer Hall, of 5209 Bardeck Drive, spoke in opposition to this item expressing concern with smaller homes being proposed.

Douglas Skinner, of 1102 Cabin Creek Road, spoke in opposition to this zoning map change. He noted on the northern side there is nothing under an acre in his neighborhood. He asked that the lot sizes on the northern side be increased to a minimum half-acre.

Polly Moore, of 5406 Ventoria Road, spoke in opposition to this zoning map change. She expressed concern with the lot size, wildlife, traffic coming through Ventoria Drive and potholes on Infinity Road from Roxboro up to Kenwood.

Mayor Pro Tempore Cole-McFadden asked staff to address where the City limits end on Infinity Road.

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A staff member noted portions of Infinity Road are in and out of the City.

City/County Planning Director Frank Duke outlined what would be difference under the UDO relative to: transitional use, buffer, density, additional connections to other properties; internal connectivity index—elimination of cul-de-sacs, the number of units allowed under the current zoning (116 units) and the definition of PDR –Planned Development in which the developer is allowed to determine his own lot size and regulated by density as requested by Council Member Catotti.

Council Member Catotti asked the applicant what assurances can be given to the neighborhood that this will be a quality development.

Attorney Kenneth Spaulding, representing the applicant, noted that during a meeting, a St. Lawrence representative spoke with residents as to the type of homes being built and asked them to visit Ashfield Place to review those homes. He noted the developer indicated these homes would not be built on a slab, outlined price range of homes and noted under the current UDO--the applicant could build 155 units.

City/County Planning Director Frank Duke noted the price range of homes cannot be enforced through the zoning process.

Council Member Brown made comments on the reduction of homes offered by the applicant and the additional buffer for five homeowners.

Relative to additional buffer for homeowners, George Stanziale, representing the applicant, noted a letter was sent to everyone following the neighborhood meeting stating that along the bottom property line there would be: 1) 20,000 square foot lots and 2) a deed restricted buffer of 25 feet on the backs of those half acre lots so it's a half acre lot with a deed restricted 25 foot undisturbed buffer which would be on a plat. Also, he addressed the issue of small lots vs. large lots requested by Council Member Brown.

Mayor Bell made comments on 25-foot buffers for 20,000 square foot lots and asked how many lots will there be.

George Stanziale, representing the applicant, noted there would be five half-acre lots regarding the 25-foot buffers for 20,000 square foot lots.

Attorney Kenneth Spaulding, representing the applicant, proffered that there would be no more than 155 lots.

## **Rebuttal**

Attorney Kenneth Spaulding, representing the applicant, made comments on the mass grading, open space, sidewalks and trails issues. He urged Council to support this item and noted the applicant will continue to keep an open line of communication with residents.



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City/County Planning Director Frank Duke noted the applicant has provided four committed elements, three are new and one revision to one of the committed elements in the staff report. Revised committed element #3 shall read grading of lots should not occur until curb and gutter is installed along the frontages of proposed lots unless required to construct the project infrastructure and no mass grading will be done in accordance with the standards of the UDO in effect dated March 7, 2006. The three new committed elements are: 1) minimum 20,000 square foot lots adjacent to lots 9 through 14 of the Briardale subdivision as illustrated on sheet dp-2.1 2) there would be a maximum of 155 single-family lots; and 3) the developer will install curb and gutter along both sides of Goodwin Road for the frontage of the proposed rezoning

Council Member Catotti asked the developer if curb and gutter would also include sidewalks.

City/County Planning Director Frank Duke noted sidewalks would not be required along both sides of the road according to the ordinance.

For clarification, George Stanziale noted as a committed element the developer shall construct a sidewalk along the frontages of Goodwin Road including the Christmas property—lot 3—and Carolina Power & Light property provided existing right-of-way is available and is able to be constructed without drainage measures as determined by the Development Review Board.

City/County Planning Director Frank Duke noted this is a commitment on one side of the road.

Council Member Woodard made comments on the sidewalk commitment for the northeast side and asked the applicant if he would be willing to commit to putting sidewalks on the other southwest side.

George Stanziale, representing the applicant, committed to putting sidewalks on both sides.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Clement to receive public comments on the zoning map for Goodwin Crossing (Z05-31);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-31 out of RS-20 and placing same in and establishing same as PDR 2.31 with lots encroaching into the Transitional Use Area (TUA) (Section 4B.1.10), and with the effective date of this zoning request delayed until subdivision of parcels, to correspond to parcel boundaries of the zoning map (Section 15.2.1 of the Zoning Ordinance);

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-



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McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None.  
Absent: None.

**Ordinance #13249**

**SUBJECT: ZONING MAP CHANGE – SURLES COURT CENTER - (Z05-26) –  
KIMLEY-HORN AND ASSOCIATES – ONE PARCEL ON THE  
SOUTHEAST CORNER OF THE INTERSECTION OF SURLES  
COURT AND SOUTH MIAMI BOULEVARD (NC 54 AND HWY 70A);  
ANOTHER SEPARATE PARCEL SOUTH OF SLATER ROAD**

To receive public comments on the zoning map change for Surles Court Center (Z05-26);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-26 out of IP, IL and placing same in and establishing same as CG; and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-0 on February 14, 2006, based on consistency with the Comprehensive Plan and considering the information contained in the staff report and testimony provided at the public hearing.

City/County Planning Director Frank Duke briefed Council on the staff report. He noted there is no development plan associated with this request. He noted the request is consistent with the Comprehensive Plan, the Planning Department is recommending approval and the Planning Commission also recommended approval.

Mayor Bell opened the public hearing.

**Proponent**

Patrick Byker, representing the applicant, spoke in support of the zoning map change. He made comments on letters of support submitted by surrounding developments.

No one spoke in opposition to this rezoning.

Mayor Bell closed the public hearing.

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to receive public comments on the zoning map change for Surles Court Center (Z05-26);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-26 out of IP, IL and placing same in and establishing same as CG; and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report was approved at 8:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13242 - 13243**

**SUBJECT: ZONING MAP CHANGE - BELCREST - (Z05-39) – NEIGHBORHOOD DEVELOPMENT PARTNERS, LLC – EAST SIDE OF FAYETTEVILLE ROAD ACROSS FROM JULIETTE DRIVE**

To receive public comments on the zoning map change for Belcrest (Z05-39);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-39 out of RS-20 and placing same in and establishing same as PDR 2.84 with approval of 26 units within the TUA; and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 9-1 on February 14, 2006, based on consistency with the Comprehensive Plan and considering the information contained in the staff report and testimony received at the public hearing, as well as the development plan and the additional committed elements proffered by the applicant during the public hearing.

City/County Planning Director Frank Duke briefed Council on the staff report. He noted there is a development plan associated with this zoning map change. He highlighted the following committed elements found on page 2 of staff report: 6,000 square feet minimum lot size, open space, 15 foot undistributed buffer on lots 4 and 5, landscaping and road improvements. He

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noted the request is consistent with the Comprehensive Plan, Planning staff is recommending approval and the Planning Commission also recommended approval.

Mayor Bell opened the public hearing.

### **Proponents**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this zoning map change. He made comments on the drainage problems expressed by Mr. Blackwell, two retention ponds, school impact and urged Council to support this request.

George Stanziale, representing the applicant, spoke in support of this item. He made comments on the sidewalks that will be built on both sides of the street. He noted the applicant tried to offer a park and a greenway at the Planning Commission Meeting, but the applicant was told that this could not be allowed in a tree save area according to the ordinance. He made comments on the traffic light at the entrance, 10-feet of right-of-way that the applicant would be providing due to Fayetteville Road widening. He noted the traffic light was not warranted at this point by the City, but is part of the road construction project and when it is completed there will be a traffic signal at this intersection.

Mayor Bell asked the applicant if the City would prevent the applicant from placing a traffic light.

Attorney Spaulding discussed the projected traffic impact.

### **Opponents**

Donna Edwards, of 311 Ebon Road, noted she welcomes change and enhancements to the neighborhood. She raised concerns with the ponds regarding the maintenance, flooding, construction, etc. Also, she made comments on Mr. Blackwell's property, showed Council pictures of the area [Ebon Road], right-of-way near the Blackwell property, current maintenance by the City regarding the two pipes and noted the maintenance should be stepped up.

If we did not have this development, Mayor Bell asked staff would it be necessary for the City to step up their maintenance of pipes.

City/County Planning Director Frank Duke noted if structures are on private property the City answer would be no and becomes the responsibility of the property owner. However, if they are in the right-of-way, yes there is a responsibility that the City incurs.

Attorney Kenneth Spaulding made comments on the maintenance problem that the City has addressed in the past that Mr. Blackwell related to him.

There was no rebuttal from the proponent.

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Mayor Bell made comments noting a traffic signal is needed on Fayetteville Street at the Hope Valley Farms development.

Regarding the schedule for the Fayetteville Road widening, Assistant City Manager Ted Voorhees noted staff is working on design, but there is no funding to-date for this project.

Mayor Bell closed the public hearing.

Regarding committed element #3 [15 foot undisturbed buffer along the rear of lots 4 and 5], Council Member Catotti asked the applicant if the same had been reviewed for lots 6 and 7.

George Stanziale, representing the applicant, noted the applicant would be committing to a 15-foot undisturbed buffer for lots 6 and 7.

City/County Planning Director Frank Duke noted that committed element #3 would be revised to read: a 15-foot undisturbed buffer along the rear property line for lots 4 through 7 as shown on sheet dp2.1

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to receive public comments on the zoning map change for Belcrest (Z05-39);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-39 out of RS-20 and placing same in and establishing same as PDR 2.84 with approval of 26 units within the TUA; and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report was approved at 9:06 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: Mayor Bell. Absent: None.

#### **Ordinance #13244**

Regarding GBA #32 [Goodwin Crossing], City/County Planning Director Frank Duke noted there is a typographical error with the PDR. He noted it should be 2.31 rather than 2.84.

**SUBJECT: ZONING MAP CHANGE - NCCU BRITE CENTER - (Z05-42) – NORTH CAROLINA CENTRAL UNIVERSITY (NCCU) – SOUTH SIDE OF LAWSON STREET, WEST OF CONCORD STREET AND EAST OF MASONDALE AVENUE**

To receive public comments on the zoning map change for NCCU Brite Center;

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-42 out of OI(D) and placing same in and establishing same as OI(D) Change in Development Plan; and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval - 10-1 on February 14, 2006, based on consistency with the Comprehensive Plan and information in the staff report and testimony received during the public hearing, as well as the development plan and the modification to the committed elements proffered by the applicant during the public hearing, to reinstate the wording of the prior committed element concerning roadway improvements at the intersection of Lawson and Fayetteville Streets and remove the reference to a roundabout.

City/County Planning Director Frank Duke briefed Council on the zoning map change. He noted there is a development plan associated with this request and highlighted committed elements found on page 3 of staff report to include: use as an educational facility with maximum 193,000 square feet, maximum height of building 75 feet, minimum 40 foot landscaped buffer along the Western property line including access easements for the adjacent property parcel on Masondale Avenue; landscaping around parking areas that would include Evergreen trees, North Carolina Central University will provide a memorial at the old Hillside High School somewhere on the site, dedication of right-of-way, a series of road improvements and provide bus stop facilities on Concord and Fayetteville Street with a pull out lane. He noted the request is consistent with the Comprehensive Plan, staff is recommending approval as well as the Planning Commission. Also, he noted at the Planning Commission hearing there was a proffer to reinstate the wording of a previous committed element to eliminate all reference to a roundabout in the area of Lawson and Fayetteville Streets.

Council Member Clement gave an overview of correspondence from the Old Hillside Neighborhood Association requesting Council to hold a decision on this proposal until NCCU addresses concerns re: need for landscaping buffers around the parking lot, shortage of parking spaces. He asked staff what are the time constraints for this rezoning.

Mayor Bell opened the public hearing.

### **Proponents**

Chancellor James Ammons, of NCCU, spoke in support of this rezoning request. He noted NCCU is developing programs that will make our students competitive throughout this new

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millennium that include courses relative for bio-sciences and bio-technology industry and commented on the Brite Center and bio-tech organizations in Durham. He urged Council to support this initiative. He addressed the time constraints concerning this item. Chancellor Ammons stated any delay would do reputable harm to the schedule and to the students that are getting ready to come into Brite and NCCU plans to start this program this coming fall with this building to open by the fall of 2007 which will allow us to provide the critical laboratory modules that have been planned for this curriculum. Without a facility, he noted NCCU cannot deliver on a program that has received significant investment by the State of North Carolina-- nearly \$21 million.

Council Member Clement made comments in support of NCCU's vision. However, he expressed concern about the neighborhood concerns.

Chancellor Ammons made comments on the several neighborhood/Phoenix Crossing meetings and noted NCCU pledges to involve the residents in the upcoming Campus Master Plan.

George Stanziale, representing the applicant, spoke in support of this rezoning request highlighting: modification of existing development plan, 20 additional spaces that are required that will be built on the site or within 1,000 feet of building that will be determined by Development Review Board; architectural character will blend with existing buildings; street trees, there is no roundabout, existing West Campus. At the January 17, 2006 meeting, there were 15 individuals who raised concerns regarding the bus traffic and the bus routes that have been changed; student parking on residential streets—that is a City related issues; uninstalled landscape around the parking lot—materials have died and are being replaced this Spring; traffic circle—there is no circle proffered at the Planning Commission meeting; NCCU Master Plan—will be redone and surrounding neighborhoods will be part of this process; no concerns expressed about the Brite Center. He noted there has never been a committed element for fencing. Also, he noted at that meeting, information was shared regarding the schedule, the City's process and why NCCU is coming back for a rezoning. Council held discussion on the building [energy efficient].

Mayor Pro Tempore Cole-McFadden noted she was told a fence was promised and asked the applicant where is it going to be placed.

George Stanziale, representing the applicant, noted he is not sure.

Al G. Williams, of 129 Masondale Avenue, noted at the original kick-off meeting Central held for its conceptual drawings, it showed a new rod iron fence as a commitment to the neighborhood as well as shrubbery that was omitted from the south side of independent dorm. All the things that they said would be done in order to produce harmony between NCCU's expansion and the neighborhood. I do understand that the shrubbery that was reduced on the Formosa side was a safety issue that was brought to them by staff and was instructed that they could not do it and no one ever told the neighbors that the trees and things that they asked for that Central had committed to were being removed. Relative to the fence, we were told what we saw on drawings was being taken forward to City Council.

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George Stanziale, representing the applicant, made comments on the conceptual drawings several years ago that may have shown some fencing on it but was never agreed to or committed to in any of the City Council meetings.

## **Opponents**

Al G. Williams, of 129 Masondale Avenue, made comments on several meetings he attended. He noted they were told at the October meeting that the Brite Center would not require additional parking. Also, he expressed concern with the buffer, construction traffic and communication issues between the residents and NCCU.

Larry Hester, representing the Fayetteville Street Planning Group, spoke in opposition to this rezoning. He urged Council to delay this rezoning so that NCCU can work with neighbors to resolve some lingering issues. He noted neighbors worry in fear for the future of their neighborhood and homes during expansion by the University. He made comments on the letters written to the University without resolution on neighborhood concerns. In addition, he noted we met with the university on numerous occasions where concerns were raised, but have received no resolutions of their concerns. He urged Council to delay this rezoning and request that the applicant get with the neighborhood to resolve the remaining issues: furnish a parking plan on how NCCU will accommodate additional parking demand from students and facility as a committed element, do not approve reduction in 20 parking spaces which will negatively effect the surrounding neighborhood, add additional vegetation with a buffer adjacent to residential areas as a committed element at the rear of the parking lot of the Brite Center which residents thought would be at the street level to the buffer of their homes from this institution; add brick fence with rod iron as a committed element around the rear parking of the Brite Center; reduce the stormwater runoff which has resulted in the trash build up on Masondale; furnish construction and parking plan for the Brite Center as a committed element construction parking – furnish officer/security control gate for the guardhouse.

Delores Eaton, of 126 Masondale Avenue, spoke against this rezoning request. She noted the Old Hillside Neighborhood Association is requesting Council to delay this rezoning until there is further conversation with members of the university. She made comments on the fence issue, buffers being located at street level for aesthetics and stormwater issue.

Denise Hester, representing the Fayetteville Street Planning Group, noted she supports the Old Hillside Neighborhood Association request to delay this rezoning request until the University has resolved all of the concerns raised by this neighborhood sometime ago. She noted parking is a huge problem already and this plan will make it worse, the shortage of 20 spaces is not acceptable and the proffer by George Stanziale is also not acceptable. She urged the University to consider acquiring satellite parking away from residential neighborhoods and raised concern with handicap accessibility to the building from handicap parking spaces from the Brite Center. She made comments on the traffic situation.

## **Rebuttal**



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George Stanziale, representing the applicant, addressed the issue of 20 additional parking spaces which the applicant was told at a later date that they are required, stormwater facility—stormwater will not be an additional issue, traffic—10 to 12 new employees in this facility, landscape, and ADA accessibility issue—made comments on the elevator.

Mayor Bell made comments on the schedule.

Council Member Woodard asked the applicant questions relative to the issue of ADA accessibility – elevators.

Mayor Pro Tempore Cole-McFadden asked Chancellor Ammons if it is possible to designate parking across from St. Titus Church.

Chancellor Ammons noted NCCU has a parking agreement with St. Titus Church.

City/County Planning Director Frank Duke noted the parking issue cannot be answered tonight and you would need to have much more information. He noted if NCCU cannot find required spaces, they will be required to construct an additional 20 spaces.

Mayor Pro Tempore Cole-McFadden asked Chancellor Ammons if Council moves forward with this item, is he willing to meet with the community to resolving issues.

Chancellor Ammons replied yes.

Council Member Stith made comments in support of a one-cycle delay to allow the residents an opportunity to meet with NCCU to come to some resolution.

Chancellor Ammons noted any further delay will have an impact on the building and noted he would need to have Council's approval in order for the state to move forward with their process.

City/County Planning Director Frank Duke made comments noting it would take two cycles to enable staff to review and get a revised plan back to Council.

Council Member Clement made comments on the neighborhood concerns raised that have not been addressed.

Mayor Bell suggested that this public hearing be continued to April 6, 2006 City Council Work Session to allow residents an opportunity to meet with NCCU to resolve issues.

**MOTION** by Council Member Clement seconded by Council Member Catotti to continue the public hearing on this item to the April 6, 2006 City Council Work Session to allow residents an opportunity to meet with NCCU to resolve issues was approved at 10:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.



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Denise Hester, of 3526 Abercromby Street, made comments on the schedule, parking space requirement and ADA accessibility—no accessibility from the parking lot to the building.

Sterling Holt, of 209 Pekoe Street, expressed parking concerns in front of his house.

**SUBJECT: ZONING MAP CHANGE – HOPE VALLEY TOWNHOMES - (Z05-44) –  
PHIL BLIZZARD – 4400, 4424 AND 4426 HOPE VALLEY ROAD,  
NORTH OF S. ROXBORO STREET**

To conduct a public hearing and receive public comments on the zoning map change for Hope Valley Townhomes (Z05-44);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-44 out of RS-10 and placing same in and establishing same as RS-M(D); and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 9-2 on February 14, 2006, based on consistency with the Comprehensive Plan and considering the information contained in the staff report and testimony received at the public hearing, as well as the development plan and the additional committed element proffered by the applicant during the public hearing.

City/County Planning Director Frank Duke briefed Council on the staff report. He highlighted committed elements on page 2, noted this request is consistent with the Comprehensive Plan, staff is recommending approval and the Planning Commission recommended approval.

Mayor Bell opened the public hearing.

**Proponent**

Attorney Kenneth Spaulding, representing the applicant, urged Council to support this rezoning request.

No one spoke in opposition to this rezoning request.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to conduct a public

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hearing and receive public comments on the zoning map change for Hope Valley Townhomes (Z05-44);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-44 out of RS-10 and placing same in and establishing same as RS-M(D); and

To adopt as support for its action on the above ordinance amendments the findings that the ordinance is consistent with the Comprehensive Plan and that the request is reasonable and in the public interest considering the determination and facts as set forth in the accompanying staff report was approved at 10:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13245**

**SUBJECT: WEST VILLAGE II DEVELOPMENT AGREEMENT WITH FULLER STREET PROPERTIES / BDV III, LLC [BLUE DEVIL VENTURES]**

To receive public comments on the West Village II Development to consider incentives for the project;

To authorize the City Manager to execute the development agreement with Fuller Street Development, LLC and other contracts and documents needed to meet the City's obligations under the development agreement so long as they do not increase the monies to be spent nor decrease the benefits to accrue to the City under the development agreement; and

To authorize the City Manager to make changes to the agreement before it is executed as long as the changes do not increase the monies to be spent nor decrease the benefits to accrue to the City under the agreement.

Economic Development Director Alan DeLisle made comments on this item.

Mayor Bell opened the public hearing.

Tom Niemann, representing Blue Devil Ventures for the West Village Expansion Project, thanked the Council and City staff for being good to them over the last three years. He stated most of all of the questions have been answered by their team over the last several work sessions and over the last year and was present to answer any additional questions. He noted there was a slight concern about staging the project or starting in two phases. He noted he wanted to reassure this Council that although they had to split up the project into two applications with HUD where they would start construction on essentially six of the buildings with the exception being Chesterfield. He stated that they will start on that construction in the next four to eight weeks. He stated HUD wanted them to process a second application on Chesterfield so that

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construction would be staggered to start in another four to six months. Mr. Niemann noted they don't intend to change any of the plans for Chesterfield and stated those apartments and especially all of the affordable apartments in that building are extremely important not only to the community, but are important to their development plan. He gave a financial summary of their commitment: the group invested \$40 million in 1999 and 2000, \$23 million to-date in the expansion plans. He noted when they close in the next four to eight weeks, they will be closing on approximately \$95-\$96 million, said they purchased all buildings and own all seven of the Liggett Meyers buildings at this point. He noted the original expansion budget of \$148 million is closer to \$153 to \$154 million, but they have that covered and will not come back to Council asking for more because of the contribution already made. He noted when they close on this next phase, they will have \$7 million invested in the Chesterfield Building and their calculation would show that there would be \$148,000 million invested in the first phase and expansion phase of West Village including the lab. He noted they would be working with HUD, the lender, and they have the equity committed for the Chesterfield Building so it's the last \$45 million, it's the 12<sup>th</sup> building in the West Village Development Plan which brings the total investment to approximately \$193 million. He said they will not stop until they get the Chesterfield Building under construction and done. He stated they have not forgotten their commitment to the Street Worker Program, Safe Neighborhood Program and the Center for Entrepreneurship for Youth. He noted there is nothing that they have committed to Council that they will be backing off on and they will continue to perform.

Mayor Bell asked Mr. Niemann about the Walker Building.

Tom Niemann noted we are in the final step for the 30-year agreement with National Railroad Passenger Corporation.

Council Member Brown asked staff if there are adequate safeguards to make sure that the Chesterfield Building will be completed.

Economic Development Director Alan DeLisle replied yes.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive public comments on the West Village II Development to consider incentives for the project;

To authorize the City Manager to execute the development agreement with Fuller Street Development, LLC and other contracts and documents needed to meet the City's obligations under the development agreement so long as they do not increase the monies to be spent nor decrease the benefits to accrue to the City under the development agreement; and

To authorize the City Manager to make changes to the agreement before it is executed as long as the changes do not increase the monies to be spent nor decrease the benefits to accrue to the City under the agreement was approved at 10:43 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AN ORDINANCE MAKING TECHNICAL CORRECTIONS TO  
CHAPTER 6 OF THE DURHAM CITY CODE TO CONFORM THE  
CODE PROVISIONS WITH PERMITTING REQUIREMENTS AND  
PRACTICE OF THE INSPECTIONS DEPARTMENT**

To receive public comments on the Ordinance Change making Technical Corrections to Chapter 6 of the Durham City Code; and

To adopt an Ordinance making Technical Corrections to Chapter 6 of the Durham City Code to Conform the Code Provisions with Permitting Requirements and Practice of the Inspections Department.

City/County Inspections Director Eugene Bradham made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to receive public comments on the Ordinance Change making Technical Corrections to Chapter 6 of the Durham City Code; and

To adopt an Ordinance making Technical Corrections to Chapter 6 of the Durham City Code to Conform the Code Provisions with Permitting Requirements and Practice of the Inspections Department was approved at 10:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13246**

**SUBJECT: HISTORIC LANDMARK DESIGNATION OF THE FORMER LIGGETT  
AND MEYERS TOBACCO COMPANY COMPLEX – WEST VILLAGE  
EXPANSION (LD04-01)**

To receive public comments on designating the Former Liggett and Myers Tobacco Company Complex – West Village Expansion; and

To adopt an Ordinance of Designation.

Recommendations: Planning Department: Approval

April 3, 2006

City/County Planning Director Frank Duke briefed Council on the historic landmark designations. He outlined who reviewed the request, County Commissioners have been notified of tax implication (\$5.5 million) and taxable value (\$2.7 million) if landmark designation is granted. He noted there was an ownership change after the agenda item was prepared; however, there is a revised last page of the ordinance to be adopted.

Mayor Bell opened the public hearing.

Council Member Stith asked staff if the deal was impacted as a result of revised ordinance.

City/County Planning Director Frank Duke replied no.

Council Member Clement asked staff what are the tax implication of these designations.

City/County Planning Director Frank Duke noted taxes are assessed only 50% of the assessed value if landmark designation is granted.

There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Woodard to receive public comments on designating the Former Liggett and Myers Tobacco Company Complex – West Village Expansion; and

To adopt an Ordinance of Designation as amended was approved at 10:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **Ordinance #13235**

#### **[SUPPLEMENTAL AGENDA]**

**SUBJECT: ORDINANCE RESCHEDULING THE APRIL 6, 2006 REGULAR CITY COUNCIL WORK SESSION**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to adopt an Ordinance Rescheduling the April 6, 2006 Regular City Council Work Session was approved at 10:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **Ordinance #13247**

April 3, 2006

**SUBJECT: RESOLUTION CORRECTING TECHNICAL ERRORS REGARDING  
THE HAYTI-ELIZABETH STREET RENEWAL AREA**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a Resolution Correcting Technical Errors Regarding the Reduction in Area in 1992 and the Termination in 2002 of the Redevelopment Plan for the Hayti-Elizabeth Street Renewal Area, Project NC R-16 was approved at 10:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9337**

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: DURHAM HOUSING AUTHORITY - APPOINTMENTS**

Council Member Clement thanked Chair Deloris Rogers for her service during her tenure on the Durham Housing Authority.

**MOTION** by Council Member Clement seconded by Council Member Stith to appoint Paige Farrington (term expires 9/28/10), Jack J. Preiss (term expires 9/28/07), George K. Quick (term expires 9/28/10) and John S. Ramsey, Jr. (term expires 9/28/09) to the Durham Housing Authority was approved at 10:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: WEED AND SEED YEAR THREE INITIATIVE**

**MOTION** by Council Member Stith seconded by Council Member Catotti to accept the FY 2005 Program Grant for the Weed and Seed Strategy from the U.S. Department of Justice, Executive Office of Weed and Seed in the amount of \$225,000;

To authorize the City Manager to execute the Grant Agreement;

To adopt the FY 2005 U.S. Department of Justice, Office of Justice Programs award for the Hayti Weed and Seed Initiative: Year Three Grant Project Ordinance in the amount of \$225,000; and

To authorize the City Manager to make changes to the agreement before execution as long as the changes do not substantially alter the dollar amount and remain consistent with the general intent of the agreement was approved at 10:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13236**

April 3, 2006

**SUBJECT: RKG ASSOCIATES, INC. ECONOMIC ASSESSMENT AND  
DEVELOPMENT PLAN OF OLD FIVE POINTS, NORTHEAST  
CENTRAL DURHAM AND THE FAYETTEVILLE STREET CORRIDOR**

Larry Hester, of 3526 Abercromby Drive, noted RKG Associates did a very good job, but there were differences in terms of how the corridor was progressing. He stated due to the late hour, he would provide the City Clerk with written comments to be shared with Council.

**MOTION** by Council Member Stith seconded by Council Member Catotti to approve the RKG Associates, Inc. Economic Assessment and Development Plan of Old Five Points, Northeast Central Durham, and the Fayetteville Street Corridor was approved at 10:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 10:55 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk